

The McAlester City Council met in a Regular session on Tuesday February 10, 2015, at 6:00 P.M. after proper notice and agenda was posted, February 5, 2015 at 11:24 A.M.

Call to Order

Mayor Harrison called the meeting to order.

William J. Ervin, City Attorney, gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, John Titsworth, Travis Read, Robert Karr, Buddy Garvin, Jason Barnett & Steve Harrison

Absent: None

Presiding: Steve Harrison, Mayor

Staff Present: Peter J. Stasiak, City Manager; John Modzelewski, City Engineer/Public Works Director; Brett Brewer, Fire Chief; Leroy Alsup, Community & Economic Development Director; Mel Priddy, Community Services Director; William J. Ervin, Sr., City Attorney and Karen Boatright, Deputy City Clerk

Ceremony and Awards

Mayor Harrison presented James Klembara as January Employee of the Month. Mr. Klembara received a plaque and a certificate of appreciation.

Mayor Harrison then presented Shawn Smith with a certificate and a pin for twenty-five (25) years of service to the City of McAlester.

Citizens Comments on Non-Agenda Items

There were no comments.

Consent Agenda

- A. Approval of the Minutes from the January 27, 2015, Regular Meeting of the McAlester City Council. (*Cora Middleton, City Clerk*)

- B. Approval of Claims for January 20, 2015 through February 3, 2015. (*Toni Ervin, Chief Financial Officer*) In the following amounts: General Fund - \$52,432.35; Nutrition - \$1,055.44; Tourism - \$3,418.70; SE Expo Center - \$10,605.60; E-911 - \$4,184.80; Economic Development - \$8,724.62; Grants & Contributions - \$1,058.75; Fleet Maintenance - \$25,167.29; CIP Fund - \$15,348.06 and Technology Fund - \$18,785.00.

ACH Payment from Tourism Fund - \$558.20.

- C. Consider and act upon, authorization of payment to Infrastructure Solutions Group, LLC; dba Mehlburger Brawley, Invoice # MC-14-06-03, in the amount of \$13,058.50 for Construction Management and Resident Project Representative Services related to CIP#3 and funded through the McAlester Public Works Authority Construction Fund Series 2013 Project Account. (*John C. Modzelewski, P.E., City Engineer and Public Works Director*)
- D. Consider and act upon, authorization of payment to T. McDonald Construction, Inc., Contractor's Application for Payment #3, in the amount of \$153,686.53, for the construction of road and infrastructure improvements related to CIP#3 and funded through the McAlester Public Works Authority Construction Fund Series 2013 Project Account. (*John C. Modzelewski, P.E., City Engineer and Public Works Director*)
- E. Discussion and possible action, on approval of an agreement for mutual aid fire protection between Coalgate Fire Department/EMS, Cairo Fire Department and the McAlester Fire Department. (*Brett Brewer, Fire Chief*)
- F. Consider and place on file the Pride in McAlester 2nd Quarter Performance Report. (*Regina Peoples, Executive Director*)
- G. Consider and act upon, to concur with Oklahoma Municipal Assurance Group recommendation to deny Claim No. 141611-KW. (*Cora Middleton, City Clerk*)
- H. Consider and act upon, authorizing the Mayor to sign Memorandum of Understanding (MOU) with the Choctaw Nation of Oklahoma. (*Peter Stasiak, City Manager*)

Mayor Harrison requested that item "E" be removed for individual consideration.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve Consent Agenda items "A through D and F through H".

There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Titsworth, Karr, Garvin, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

Items Removed from Consent Agenda

- E. Discussion and possible action, on approval of an agreement for mutual aid fire protection between Coalgate Fire Department/EMS, Cairo Fire Department and the McAlester Fire Department. (*Brett Brewer, Fire Chief*)

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve Consent Agenda item "E".

Before the vote, Mayor Harrison stated that a correction needed to be made on the agreement. He explained that the agreement was between Coalgate and McAlester, so in the first sentence Cairo would be stricken and replaced with McAlester Fire Department.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Titsworth, Karr, Garvin, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to open a Public Hearing to address three (3) Ordinances. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Karr, Garvin, Barnett, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was opened at 6:07 P.M.

Public Hearing

All persons interested in any ordinance listed under Scheduled Business shall have an opportunity to be heard in accordance with Article 2, Section 2.12(b) of the City Charter.

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2501 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2014-15; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

AN ORDINANCE AMENDING CHAPTER 62, LAND DEVELOPMENT CODE, OF THE McALESTER CITY CODE BY CREATING SECTION 62-214, DOWNTOWN AND OLD TOWN LOFT APARTMENT OVERLAY DISTRICT; REPEALING ALL CONFLICTING ORDINANCES AND DECLARING AN EMERGENCY.

AN ORDINANCE AMENDING CHAPTER 62, LAND DEVELOPMENT CODE, OF THE McALESTER CITY CODE BY AMENDING SECTIONS 62-203, 62-204 AND 62-205 PERTAINING TO AUTOMOBILE SALES AND SERVICE AS A PERMITTED USE IN THE C-3 GENERAL COMMERCIAL DISTRICT, C-4 RESTRICTED COMMERCIAL DISTRICT,

AND C-5 HIGHWAY COMMERCIAL AND COMMERCIAL RECREATION DISTRICT;
REPEALING ALL CONFLICTING ORDINANCES AND DECLARING AN EMERGENCY.

Kristen Lloyd thanked the Council for considering the Ordinance that would create a “Loft Apartment Overlay District” in Downtown and Old Town.

There were no other comments from the Council or citizens present. A motion was made by Vice-Mayor Read and seconded by Councilman Smith to close the Public Hearing. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Karr; Garvin, Barnett, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was closed at 6:11 P.M.

Scheduled Business

1. Presentation of the Mayor’s Annual State of the City Address. (*Steve Harrison, Mayor*)
Executive Summary
Annual Mayor State of the City Address.

Mayor Harrison gave the Annual State of the City Address. During his address he commented on the Street Projects, the ODOT change in the design of the 69 Bypass project, the South Main water main replacement, the 30” Pipe Header replacement at the Water Plant, the appropriated funds for the relocation of the 20” water main at Talawanda Lake #2, and the Partnership with Severn Trent to manage the City’s Water Treatment Plant. Mayor Harrison commented on the amount of building permits that had been issued during the past fiscal year, the jobs that had been created and the various other retail and economic development opportunities that were already in process or in future plans. He then commented on the activities of the City’s Fire and Police Departments, the activities of the City’s Parks Department, the improvements in the Finance Department and the various festivals and parades that the community enjoys. He thanked the local organizations and the City employees for the work they have done. He then commented on the level of sales tax that the City had been experiencing during the past year.

2. Consider and act upon, an Ordinance amending Ordinance No. 2501 which established the budget for fiscal year 2014-2015; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. (*Toni Ervin, Chief Financial Officer*)
Executive Summary
Motion to approve the budget amendment ordinance.

ORDINANCE NO. 2528

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2501 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2014-15; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve **ORDINANCE NO. 2528**, amending the Fiscal Year 2014-2015 Budget.

Before the vote, Manager Stasiak addressed the Council reviewing the exhibits explaining that the amendment would appropriate additional funds for the Chipper, appropriate funds for the Mid-Year Review and for the 2014 CDBG Water Improvement Project.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Garvin, Barnett, Titsworth, Karr & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

Vice-Mayor Read moved to approve the EMERGENCY CLAUSE, seconded by Councilman Garvin. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Garvin, Barnett, Smith, Titsworth, Karr & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

3. Consider and act upon, an Ordinance amending Chapter 62, Land Development Code, of the McAlester City Code by creating Section 62-214, Downtown and Old Town Loft Apartment Overlay District; repealing all conflicting ordinances and declaring an emergency. (*Leroy Alsup, Community and Economic Development Director*)

Executive Summary

Motion to act upon and approve the above ordinance amending Chapter 62, Land Development Code, of the McAlester City Code by creating Section 62-214, Downtown and Old Town Loft Apartment Overlay District; repealing all conflicting ordinances and declaring an emergency and authorizing the Mayor to sign the ordinance.

ORDINANCE NO. 2529

AN ORDINANCE AMENDING CHAPTER 62, LAND DEVELOPMENT CODE, OF THE McALESTER CITY CODE BY CREATING SECTION 62-214, DOWNTOWN AND OLD TOWN LOFT APARTMENT OVERLAY DISTRICT; REPEALING ALL CONFLICTING ORDINANCES AND DECLARING AN EMERGENCY.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve **ORDINANCE NO. 2529**, creating section 62-214, Downtown and Old Town Loft Apartment Overlay District.

Before the vote, Director Alsup addressed the Council explaining that the new district was intended to be an overlay zoning district and any regulations or permitted uses would be in addition to the regulations or permitted uses of the underlying zoning district. He added that the provisions of the new overlay district would allow single, two-family and multi-family

residential dwellings as a permitted use on the upper stories and as a use permitted after review on the ground floor or basement within the district.

There was discussion among the Council and Director Alsup regarding parking issues, the Building and Fire Code, the buildings historical features, the number of possible loft apartments, water service issues and required updates. During this discussion, Vice-Mayor Read requested that language be included in the Ordinance clarifying that the City was not granting any waivers.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Titsworth, Karr, Garvin, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

A motion was made by Vice-Mayor Read and seconded by Councilman Karr to approve the EMERGENCY CLAUSE. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Karr, Garvin, Barnett, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

4. Consider and act upon, an Ordinance amending Chapter 62, Land Development Code, of the McAlester City Code by amending Sections 62-203, 62-204 and 62-205 pertaining to automobile sales and service as a permitted use in the C-3 general commercial district, C-4 restricted commercial district, and C-5 highway commercial and commercial recreation district; repealing all conflicting ordinances and declaring an emergency. (*Leroy Alsup, Community and Economic Development Director*)

Executive Summary

Motion to act upon and approve the above ordinance amending Chapter 62, Land Development Code, of the McAlester City Code by amending Sections 62-203, 62-204 and 62-205 pertaining automobile sales and service as a permitted use in the C-3 general commercial district, C-4 restricted commercial district, and C-5 highway commercial and commercial recreation district; repealing all conflicting ordinances and declaring an emergency and authorizing the Mayor to sign the ordinance.

A motion was made by Councilman Smith and seconded by Councilman Garvin to approve an ordinance amending Chapter 62, Land Development Code, of the McAlester City Code by amending Sections 62-203, 62-204 and 62-205 pertaining automobile sales and service as a permitted use in the C-3 general commercial district, C-4 restricted commercial district, and C-5 highway commercial and commercial recreation district; repealing all conflicting ordinances and declaring an emergency.

Before the vote, Director Alsup addressed the Council commenting that the Planning Commission had voted to recommend to the City Council amendments to Chapter 62, Land Development Code of the McAlester City Code in Sections 62-203, 62-204 and 62-205 pertaining to automobile sales and service as a permitted use.

There was discussion among the Council, Wayne Stipe and Director Alsup concerning the specific changes to the Code section, allowing used and new car sales, the number of used car sales lots, the number of car service businesses, changing the C-4 and C-5 zoning language and leaving C-3 zoning language as it was written with the possibility of “Use Permitted After Review” for case by case situations.

Director Alsup stated that if so instructed by the City Council to amend the language in this proposed Ordinance to reflect the comments from the Council, staff would have no problem making those changes and bringing this issue back before the Council at a later date.

Vice-Mayor Read moved to table this item and change the language as directed by the Council. The motion was seconded by Councilman Smith. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Titsworth, Karr, Garvin, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

5. Consider and act upon, a Memorandum of Understanding waiving or suspending the Zoning Ordinance provisions of the Sec. 62-197 single-family residential district due to peculiar or exceptional extenuating circumstances where a literal enforcement of the existing Zoning Ordinance provisions of Sec. 62-197 single-family residential district would create an unnecessary and undue hardship on the applicant and allowing the existing residential structure at 804 E Monroe to be used specifically for the Genesis Health and Beauty Salon in pursuant the provision of the terms set forth in the Memorandum of Understanding. (*Leroy Alsup, Community and Economic Development Director*)

Executive Summary

Motion to act upon and based on no affirmative recommendation from the Planning Commission, not approving the Memorandum of Understanding waiving or suspending the Zoning Ordinance provisions of the Sec. 62-197 single-family residential district allowing the existing residential structure at 804 E Monroe to be used specifically for the Genesis Health and Beauty Salon in pursuant the provision of the terms set forth in the Memorandum of Understanding.

A motion was made by Councilman Karr and seconded by Councilman Garvin to approve a Memorandum of Understanding waiving or suspending the Zoning Ordinance provisions of the Sec. 62-197 single-family residential district due to peculiar or exceptional extenuating circumstances where a literal enforcement of the existing Zoning Ordinance provisions of Sec. 62-197 single-family residential district would create an unnecessary and undue hardship on the applicant and allowing the existing residential structure at 804 E Monroe to be used specifically for the Genesis Health and Beauty Salon in pursuant the provision of the terms set forth in the Memorandum of Understanding.

Before the vote, Director Alsup addressed the Council regarding the applicants request to change the zoning from R1-B (Single-Family Residential) to either C-2 (Neighborhood Convenience);

H-1 (Health Facilities) or consideration by the City Council to waive or suspend the provisions of R1-B Single-Family Residential due to the peculiar or exceptional extenuating circumstances and allow Genesis Health and Beauty Salon as a nonconforming use at 804 E. Monroe Avenue pursuant to a written memorandum of understanding. He added that at the January 20, 2015 Planning Commission meeting Chairman Emmons noted that because the minimum thresholds standards requirements for rezoning were not met, the rezoning for the property at 804 E. Monroe to C-2 or H-1 were off the table and the Planning Commission took no formal action on the applicants request.

There was discussion among the Council, Director Alsup and Attorney Ervin concerning the request to rezone the property, the requirements to rezone, and the Council waiving the requirements of rezoning.

Mr. C.J. Conroy and Ms. Mary Factory addressed the Council expressing their support for Ms. Brooks.

Ms. Janelle Brooks addressed the Council requesting that they approve her request to change the zoning or waive the provisions of R1-B Single-Family Residential.

After another brief discussion among the Council regarding this request, the vote was taken as follows:

AYE: Councilman Karr & Garvin

NAY: Councilman Read, Barnett, Smith, Titsworth & Mayor Harrison

Mayor Harrison declared the motion failed.

6. Consider and act upon, accepting the bid from Vermeer Equipment in the amount of \$60,600.00 for one new and unused commercial brush chipper. (*Mel Priddy, Community Services Director*)

Executive Summary

Motion to approve request to accept the bid from Vermeer Equipment.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve the bid from Vermeer Equipment for one new and unused commercial brush chipper in the amount of \$60,600.00.

Before the vote, Director Priddy addressed the Council stating that three (3) bids were received and opened on January 20, 2015 and after careful review of those bids, staff recommended accepting the bid from Vermeer Equipment.

After a brief discussion among the Council including Manager Stasiak regarding the size of the chipper, where the mulch was stored, citizens' opportunity to get mulch from the City and when it would be available, the vote was taken as follows:

AYE: Councilman Smith, Read, Karr, Garvin, Barnett, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried

7. Consider and act upon, authorizing the Mayor to sign a Professional Services Agreement with Meshek & Associates, PLC for the design of drainage improvements on Illinois Avenue between Ninth Street and Tenth Street. (*John C. Modzelewski, P.E., City Engineer and Public Works Director*)

Executive Summary

Motion to approve authorizing the Mayor to sign a Professional Services Agreement with Meshek & Associates, Inc. for the design of drainage improvements on Illinois Avenue between Ninth Street and Tenth Street for a fee not to exceed \$31,000.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to authorize the Mayor to sign a Professional Services Agreement with Meshek & Associates, Inc. for the design of drainage improvements on Illinois Avenue between Ninth Street and Tenth Street for a fee not to exceed \$31,000.

Before the vote, Director Modzelewski addressed the Council explaining that this was one (1) of five (5) problem areas that were identified in the drainage study of the Sandy Creek Tributary C (Wide Basin), that had be performed by Meshek & Associates. He added that the project that was being requested would improve not only the drainage structure on Illinois Avenue between Ninth and Tenth Streets but would also replace the existing sidewalk above the structure.

There was a brief discussion among the Council including Manager Stasiak and Director Modzelewski regarding funding of the project, and how this project would address aesthetics in the area.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Garvin, Barnett, Titsworth, Karr & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

8. Consider and act upon, Change Order No. 1 to the contract with T. McDonald Construction, Inc for the construction of Second Street Improvements and authorize the Mayor to sign Change Order No. 1 resulting in the addition of five (5) days and a subtraction of \$8,950.00 to the contract amount. (*John C. Modzelewski, P.E., City Engineer and Public Works Director*)

Executive Summary

Motion to approve Change Order No. 1 to the contract with T. McDonald Construction, Inc. and authorizing the Mayor to sign the Change Order changing the Contract Substantial Completion to October 15, 2015 and the Contract amount to \$2,722,037.50.

Councilman Garvin moved to approve Change Order No. 1 to the contract with T. McDonald Construction, Inc for the construction of Second Street Improvements and authorize the Mayor to

sign Change Order No. 1 resulting in the addition of five (5) days and a subtraction of \$8,950.00 to the contract amount. The motion was seconded by Councilman Karr.

Before the vote, Director Modzelewski addressed the Council explaining that the changes in the construction which resulted in the net deduction.

After a brief discussion concerning abandoned service lines the vote was taken as follows:

AYE: Councilman Karr, Garvin, Barnett, Smith, Titsworth, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

9. Discussion on CDBG process, eligible projects, Public Hearing process and related CDBG rules and regulations. (*Millie Vance, Certified CDBG Grant Writer*)

Executive Summary

Discussion only.

Millie Vance addressed the Council to review the CDBG process. She explained that it was Federal monies that had stringent guidelines to qualify for the grant. She informed the Council of the steps that were required to apply for the grant, to qualify for the grant, what areas of the City would qualify for the grant projects and how projects were determined.

There was a brief discussion regarding the surveys, the projects that are available, getting more public input, and the number of grants that McAlester has done or received.

There was no action taken on this item.

New Business

There was no new business.

City Manager's Report

- Report on activities for the past two weeks.

Manager Stasiak commented on the accomplishments of the City that had been highlighted by the Mayor's State of the City Address and he thanked the Council for their support of those accomplishments.

Remarks and Inquiries by City Council

Councilman Barnett, Read, Titsworth and Smith did not have any comments for the evening.

Councilman Garvin commended the Fire and Police Departments for the job they did in responding to a fire at one of his rental properties. He commented on the new bathrooms at Hutchison Park and commended Billy Jack Boatright for his work. He commented on the progress and quality of work on the "A" Street reconstruction.

Councilman Karr informed the Council that the Choctaw Nation District 11 Stick Ball team had recently competed in games in Sulphur and had won two (2) games against the Chickasaw team.

Mayor's Comments and Committee Appointments

Mayor Harrison had no comments for the evening.

Recess Council Meeting

Mayor Harrison asked for a motion to recess the Regular Meeting to convene the Authorities. Councilman Smith moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Vice-Mayor Read. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Karr, Garvin, Barnett, Titsworth, & Mayor Harrison
NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 8:32 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 8:33 P.M.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to recess the Regular Meeting for an Executive Session pursuant to Title 25, Sec. 307 (B) (3) for the purpose of discussing the purchase or appraisal of real property, more specifically the City's possible purchase of certain real property with an existing structure to be held for economic development purposes.

There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Titsworth, Karr, Garvin, Barnett & Mayor Harrison
NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 8:347 P.M.

Executive Session

Recess into Executive Session in compliance with Section Title 25 Section 307 B.3 et.seq. Oklahoma Statutes, to wit:

- Proposed executive session pursuant to 25 O.S. § 307(B)(3) for the purpose of discussing the purchase or appraisal of real property, more specifically the City's possible purchase of certain real property with an existing structure to be held for economic development purposes.

Reconvene into Open Session

The Regular Meeting was reconvened at 9:25 P.M. Mayor Harrison reported that the Council had recessed the Regular Meeting for an Executive Session for an Executive Session pursuant to Title 25, Sec. 307 (B) (3) for the purpose of discussing the purchase or appraisal of real property, more specifically the City's possible purchase of certain real property with an existing structure to be held for economic development purposes. Only that matter was discussed, no action was taken and the Council returned to open session at 9:25 P.M., and this constituted the Minutes of the Executive Session.

Adjournment

There being no further business to come before the Council, Councilman Garvin moved for the meeting to be adjourned. The motion was seconded by Councilman Karr.

There was no discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Karr, Smith, Titsworth, Read, Barnett & Mayor Harrison
NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 9:26 P.M.

ATTEST:

Steve Harrison, Mayor

Karen Boatright, Deputy Clerk